

Chapter 5.28

PEDDLERS, SOLICITORS AND VENDORS

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5.28.010 Definitions.

The word "peddler" as used in this chapter means any person, whether a resident of this city or not, traveling from place to place, from house to house, or from street to street for the purpose of selling or soliciting for sale of goods, wares, merchandise, or services, other than agricultural products produced or processed in this state; and shall also mean and include any person transacting a temporary business within the city. The words "temporary business" shall not include bona fide

garage or rummage sales which are not conducted at the same location more than four times per year; the duration of each sale shall not exceed four days. The word "peddler" shall include the terms "solicitor," "transient or itinerant merchant or vendor" or "transient or itinerant photographer." (Prior code § 4.0901)

5.28.020 Exceptions to chapter.

The provisions of this chapter shall not apply to the following:

- A. Solicitations, sales or distributions made by charitable, educational, or religious organizations which have registered with the city clerk's office on forms provided by that office;
 - B. Traveling salespersons doing business exclusively with retail merchants, manufacturers, jobbers or public officials;
 - C. Members of professions licensed by the state which have continuing education requirements.
- (Prior code § 4.0902)

5.28.030 Refusing to leave.

It is unlawful for any peddler who enters upon premises owned or leased by another to refuse to leave the premises after having been notified by the owner or possessor of the premises, or his or her agent, to leave the premises. (Prior code § 4.0903)

5.28.040 Entrance to premises restricted.

It is unlawful for any peddler to enter upon any private premises when the premises is posted with a sign stating "No Peddlers Allowed", "No Soliciting" or words to that effect. (Prior code § 4.0904)

5.28.050 Misrepresentation.

It is unlawful for any peddler to make false or fraudulent statements concerning the quality or nature of his or her goods, wares, merchandise or services for the purpose of inducing another to purchase the goods, wares, merchandise or services. (Prior code § 4.0905)

5.28.060 Hours of Operation.

It is unlawful for any peddler to engage in the business of peddling between the hours of eight p.m. and nine a.m. the following morning, or at any time on Sundays, except by specific appointment with or invitation from the prospective customer. (Prior code § 4.0906)

5.28.070 Prohibited conduct.

Any peddler selling or soliciting for sale goods, wares, merchandise or services by traveling from place to place, house to house, or street to street shall not remain in any one place for a period longer than necessary to make a sale after having been approached or stopped for that purpose. Selling or soliciting and peddling from pushcarts, movable vehicles or similar movable devices is prohibited other than as authorized by a permit issued pursuant to this chapter. (Prior code § 4.0907)

5.28.080 Permit required.

It is unlawful for any person to engage in business as a peddler within this city without first obtaining a permit to do so. (Prior code § 4.0908)

5.28.090 Permit application.

The application for a permit required by the provisions of this chapter shall:

- A. Contain a statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any state or federal law or municipal ordinance or code; the nature of the offense; the punishment or penalty assessed therefore, if previously convicted; and the place of conviction;
- B. Whether the applicant, upon any sale or order, shall demand, accept or receive payment, or deposit money in advance of final delivery;
- C. The period of time the applicant wishes to engage in business within the city;
- D. The local, and permanent, address of the applicant;
- E. The local, and permanent, address and the name of the person, if any, that the applicant represents;
- F. The kind of goods, wares, merchandise or services the applicant wishes to engage in such business within the city;
- G. The last five cities or towns wherein the applicant has worked before coming to this city;
- H. Such other relevant information as the police chief may require for the investigation of the applicant. (Prior code § 4.0909)

5.28.100 Bond required.

Every peddler before receiving a license shall file in the office of the city clerk a bond in the penal sum of one thousand dollars (\$1,000.00) conditioned for the faithful performance and payment of obligations of the peddler arising in connection with the business, and for payment of all claims or damages for which the peddler may become liable through fraud, deceit or otherwise in the course of business as a peddler. (Prior code § 4.0910)

5.28.110 False information.

It is unlawful for any person to give any false or misleading information in connection with his or her application for a permit required by this chapter. (Prior code § 4.0911)

5.28.120 Fingerprints and photographs.

At the request of the city clerk the applicant for a permit required by this chapter shall submit to fingerprinting and photographing by the police chief. (Prior code § 4.0912)

5.28.130 Permit fee.

Before any permit shall be issued under the provisions of this chapter, the applicant shall pay a fee of thirty-five dollars (\$35.00). (Prior code § 4.0913)

5.28.140 Permit issuance restricted.

No peddler's permit shall be issued to a corporation, partnership or other impersonal legal entity, but each individual person engaging in the business of peddling within the city shall be required to have a permit whether acting for himself or herself or as an agent or representative of another. (Prior code § 4.0914)

5.28.150 Permit display.

Every peddler having a permit issued under the provisions of this chapter and doing business within the city shall display his or her permit upon the request of any person, and failure to do so shall be unlawful. (Prior code § 4.0915)

5.28.160 Permit revocation.

Any permit issued under the provisions of this chapter may be revoked for the violation by the permittee of any provision of this code, state law or city ordinance. Upon such revocation, such permit shall immediately be surrendered to the police chief, and failure to do so shall be unlawful. (Prior code § 4.0916)

5.28.170 Additional definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Stand" means any table, showcase, bench, rack, pushcart, wagon or any other movable vehicle or device, which may be moved without the assistance of a motor and which is not required to be licensed and registered by the state department of commerce and regulation, used for the displaying, storing or transporting of articles offered for sale by a vendor.

"Vendor" means any person engaged in the selling or offering for sale of food, beverages, merchandise or service on the public streets or sidewalks, from a stand or motor vehicle or from their person. (Prior code § 4.0917)

5.28.180 Vendor license required.

It is unlawful to sell or offer for sale any food, beverage, merchandise or service on any street or sidewalk in the within the city without first obtaining a vendor's license. (Prior code § 4.0918)

5.28.190 Application for vendor license.

The application for a vendor's license shall include:

A. The name, home and business address of the applicant and the name and address of the owner, if other than the applicant of the vending business, stand or motor vehicle to be used in the operation of vending business;

B. A description of the type of food, beverage, merchandise or service to be sold;

C. A description and photograph or schematic drawing of any stand or motor vehicle to be used in the operation of the business, including a license and registration number of any motor vehicle used in the operation of the business;

D. Before commencement of operations, a certificate of inspection as required by Section 5.28.250;

E. Before commencement of operations, proof of an insurance policy, issued by an insurance company and licensed to do business in the state, protecting the licensee and city from all claims or damages to property and bodily injury, including death and attorneys' fees, which may arise from operations under or in connection with the license. Such insurance shall name the city as an additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date without thirty (30) days' advance written notice to the city. (Prior code § 4.0919)

5.28.200 Issuance of vendor licenses.

The planning and zoning board department shall prepare a list of designated vending locations. All businesses fronting designated vending locations shall have a first right of refusal to obtain a vending license for the designated location in front of their businesses. If more applications are received than there are designated vending locations as determined by the planning and zoning board, the applications, if approved, shall be awarded the locations in the order of their application. If a license is denied, the applicant shall be provided with a statement of the reasons for denial, which reasons shall be entered in writing on the application. An applicant may request a hearing upon denial of the license request. A license to vend on the sidewalk shall specify the location from which vending is permitted, shall only be valid for vending at that location, and is nontransferable. (Prior code § 4.0920)

5.28.210 Prohibited conduct.

No vendor shall:

A. Store, park or leave any stand overnight on any street or sidewalk or park any motor vehicle other than in a lawful parking place, in conformance with city and state parking regulations;

B. Sell food or beverages for immediate consumption unless he or she has available for public use his or her own or a public litter receptacle which is available for his or her patrons' use;

C. Leave any location without first picking up, removing and disposing of all trash or refuse remaining from sales made by him or her;

D. Use any device that is designed to amplify sound for the purpose of making verbal solicitations;

E. Allow any items relating to the operation of the vending business to be placed anywhere other than in, on or under the stand or motor vehicle;

F. Set up, maintain or permit the use of any table, crate, carton, rack or any other device to increase the selling or display capacity of his or her stand or motor vehicle where such items have not been described in this application;

G. Solicit or conduct business with persons in motor vehicles;

H. Sell anything other than that which he is licensed to vend;

I. Vend without the insurance coverage specified in Section 5.28.190(E);

J. No vendor selling from a stand on the sidewalk in the central business district shall be at any location which is not approved by the city planning department or allow the stand or any other item relating to the operation of the vending business to lean against or extend from any building or other structure lawfully placed on public property without the owner's permission. (Prior code § 4.0921)

5.28.220 Special events.

Any vendor's license granted shall be preempted during the operation of recognized special events being conducted within the city. A person in charge of a special event shall obtain a vendor's license prior to holding any special event. Such special event vending license shall be granted subject to compliance with any conditions or requirements placed on it by the finance officer. Recognized special events are as follows:

A. Those special events named in the special events calendar as adopted by the city council, which calendar shall be adopted and made available to the public no later than March 13th of each year;

B. Those special events that are conducted by a bona fide nationally chartered veterans, religious, charitable, educational or fraternal organization, local civic or service club, political party or volunteer fire department or political committee on behalf of a candidate for a political office, which exists under the laws of the state. (Prior code § 4.0922)

5.28.230 Farmers market--Local produce.

A vendors license is not required for the sale of locally grown produce. A person desiring to sell locally grown produce shall obtain a permit from the city finance officer and pay a fee of five dollars. Local produce may be sold only on River Drive. A permit to sell local produce shall be granted subject to any conditions or requirements placed on it by the finance officer. Local produce is defined as any agricultural product grown or raised within a twenty-five (25) mile radius of the municipal boundaries of North Sioux City. (Prior code § 4.0923)

5.28.240 Size requirements for vending stands.

No vending stand shall exceed thirty (30) inches in width and six feet in length and thirty-eight (38) inches in height to the counter top and seven feet vertical clear space, ground to lowest point of protective covering, which measurements shall include the entire vehicle and any attachments. (Prior code § 4.0924)

5.28.250 Health and sanitation requirements for food and beverage vending.

Vendors of food and beverages shall comply with the inspection provisions and standards for food service as contained in the North Sioux City ordinances, and the following:

A. The equipment used in vending food and beverages shall be inspected upon application for a license and shall be required to obtain a valid food service license and operating permit.

B. Each food and beverage vending business shall be inspected at least twice a year. (Prior code § 4.0925)

5.28.260 Display of license.

All licenses required under this chapter shall be displayed at all times during the operation of the vending business. (Prior code § 4.0926)

5.28.270 Advertising.

No advertising, except the posting of prices, shall be permitted on any stand or motor vehicle, except to identify the name of the product or the name of the sidewalk vendor. (Prior code § 4.0927)

5.28.280 Renewal of license.

All licenses required in this chapter are valid for the entire licensing period, excluding special events, unless revoked or suspended prior to expiration. An application to renew a license shall be made no later than thirty (30) days before the expiration of the current license. (Prior code § 4.0928)

5.28.290 Denial, suspension and revocation of license.

Any license required in this chapter may be denied, suspended or revoked for any of the following causes:

- A. Fraud or misrepresentation contained in the application for the license;
- B. Fraud or misrepresentation made in the course of carrying on the business of vending;
- C. Conduct of the licensed business in such a manner as to create a public nuisance or constitute a danger to the public health, safety, welfare or morals;
- D. Conduct of the business in violation of any city or state tax and licensing laws;
- E. Conduct which is contrary to the provisions of this chapter. (Prior code § 4.0929)